

110TH CONGRESS
1ST SESSION

H. R. 2058

To include costs incurred by the Indian Health Service, a federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out of pocket threshold under part D of title XVIII of the Social Security Act and to provide a safe harbor for assistance provided under a pharmaceutical manufacturer patient assistance program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2007

Mr. HOLT (for himself, Mr. FERGUSON, Mr. FRELINGHUYSEN, Mr. GRIJALVA, Mr. BOSWELL, Mr. McNULTY, Ms. NORTON, Mr. CUMMINGS, Ms. WOOLSEY, Mr. JOHNSON of Georgia, Mr. ELLISON, Ms. HIRONO, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Ms. JACKSON-LEE of Texas, Mr. COHEN, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To include costs incurred by the Indian Health Service, a federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out of pocket threshold under part D of title XVIII of the Social Security Act and to provide a safe harbor for assistance

provided under a pharmaceutical manufacturer patient assistance program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Helping Fill the Medi-
5 care Rx Gap Act of 2007”.

6 SEC. 2. INCLUDING COSTS INCURRED BY THE INDIAN

14 (a) IN GENERAL.—Section 1860D-2(b)(4)(C) of the
15 Social Security Act (42 U.S.C. 1395w-102(b)(4)(C)) is
16 amended—

17 (1) in clause (i), by striking “and” at the end;

18 (2) in clause (ii)—

19 (A) by striking “such costs shall be treated

20 as incurred only if” and inserting “subject to

21 clause (iii), such costs shall be treated as in-

22 curred if”;

1 (B) by striking “, under section 1860D–
2 14, or under a State Pharmaceutical Assistance
3 Program”; and

4 (C) by striking the period at the end and
5 inserting “; and”; and

6 (3) by inserting after clause (ii) the following

7 new clause:

12 “(I) under section 1860D-14;

1 title XXVI of the Public Health Serv-
2 ice Act;

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to costs incurred on or after
21 January 1, 2007.

1 SEC. 3. PROVIDING A SAFE HARBOR FOR PHARMA-
2 CEUTICAL MANUFACTURER PATIENT ASSIST-
3 ANCE PROGRAMS.

4 (a) SAFE HARBOR.—Section 1128B(b)(3) of the So-
5 cial Security Act (42 U.S.C. 1320a-7b(b)(3)) is amend-
6 ed—

7 (1) in subparagraph (G), by striking “and” at
8 the end;

9 (2) in subparagraph (H), as added by section
10 237(d) of the Medicare Prescription Drug, Improve-
11 ment, and Modernization Act of 2003 (Public Law
12 108-173; 117 Stat. 2213)—

13 (A) by moving such subparagraph 2 ems to
14 the left; and

15 (B) by striking the period at the end and
16 inserting a semicolon;

17 (3) by redesignating subparagraph (H), as
18 added by section 431(a) of the Medicare Prescrip-
19 tion Drug, Improvement, and Modernization Act of
20 2003 (Public Law 108-173; 117 Stat. 2287), as
21 subparagraph (I);

22 (4) in subparagraph (I), as so redesignated—

23 (A) by moving such subparagraph 2 ems to
24 the left; and

25 (B) by striking the period at the end and
26 inserting “; and”; and

1 (5) by adding at the end the following new sub-
2 paragraph:

3 “(J) any remuneration paid by a pharma-
4 ceutical manufacturer patient assistance program,
5 either in cash or through the distribution or dona-
6 tion of covered Part D drugs (as defined in section
7 1860D–2(e)), to an individual enrolled in a prescrip-
8 tion drug plan under part D of title XVIII or in an
9 MA–PD plan under part C of such title.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply to remuneration paid on or after
12 January 1, 2007.